

- A: (c)(elevator);
- B: (f)(2)(lock plunger having a helical guide groove and keyway having polygonal shape).

In regards to the latter, the Applicants note that the following claims are readable upon the above-noted species:

- Section 5(A)(c)(elevator): Claims 1-21.
- Section 5(B)(f)(2): Claims 1-15, and 18-21.

Between the species noted by the Examiner, the following claims are believed generic (*i.e.*, they do not specify between the different locations noted in Section 5(A) of the Office Action, and do not specify the type of locking devices noted in Section 5(B) of the Office Action): Claims 1-3 and 6-14.

REMARKS

In the Office Action, the Examiner categorized the present application as including claims drawn to the following species:

- I. Claims 1-10, drawn to a method of securing a firearm;
- II. Claims 11-16, drawn to a firearm; and
- III. Claims 17 and 18, drawn to a locking mechanism.

The Applicants concede that the claims of Group III are properly restricted. However, the Applicants respectfully submit that the claims of Groups I and II are not. As such, the Applicants request withdrawal of the restriction requirement with respect to Groups I and II.

More specifically, as the Examiner noted, Groups II and III may be characterized as relating to a product, while Group I may be characterized as relating to a process or method of use. In such cases, pursuant to M.P.E.P. § 806.05(h), restriction is proper if: "(A) the process of using as claimed can be practiced with another materially different product; or (B) the product as claimed can be used in a materially different process." In the case of Group III, these conditions are met, since, as the Examiner noted, the Group I process can be implemented using different locking mechanisms from

those claimed in Group III. However, neither of the aforementioned conditions is met between Groups I and II.

To elaborate, Claim 1 (as an example) from Group I is for a method of securing a firearm, as follows (paraphrased):

- selecting a location on the firearm at which to attach a locking device, where the location has the following characteristics:
 - the locking device blocks the firearm's action;
 - the locking device can only be actuated when the action is open; and
 - the locking device cannot be defeated to the extent the firearm can be operatively disassembled; and
- attaching a locking device at the selected location.

Similarly, Claim 13 in Group II (as an example), is for a firearm comprising (paraphrased):

- a receiver and an action; and
- a locking device attached to the receiver, wherein:
 - the locking device can be actuated to block the firearm's action;
 - the locking device can only be actuated when the action is open; and
 - the locking device cannot be defeated to the extent the firearm can be operatively disassembled.

Here, the process recited in Claim 1 cannot be practiced with a product materially different from the one recited in Claim 13. This is because in order to practice the method, any product would necessarily have to include: a firearm with an action (all firearms applicable to the present invention have actions and receivers); and a locking device having the aforementioned operational characteristics (blocks action, cannot be actuated unless action is open, cannot be defeated to the extent the firearm can be operatively disassembled). This is what is recited in Claim 13.

Moreover, the product recited in Claim 13 could not be used in a process materially different from the one recited in Claim 1. This is because the product relates to a firearm with an attached locking device, where the locking device can be actuated to block the firearm's action, cannot be

actuated unless the action is open, and cannot be defeated to the extent the firearm can be operatively disassembled. In order for the firearm recited in Claim 13 to intentionally have these characteristics, the method of Claim 1 would have to be undertaken, *i.e.*, to figure out where to attach the locking device!

Another (perhaps more accurate) way of looking at Groups I and II is as a process (Group I) and a product made by that process (Group II). In such cases, pursuant to M.P.E.P. § 806.05(f), restriction is proper if: (A) the process as claimed can be used to make other and different products; or (B) the product as claimed can be made by another and materially different process. Here, the process claimed in Group I could not be used to make other, different products, because the process in Claim 1 of selecting the particular location for attaching the locking device would necessarily result in a locking device being attached at that location and having the recited characteristics, as set forth in Claim 13. Additionally, the product claimed in Claim 13 could not be made by another process, because in order for the firearm with attached locking device in Claim 13 to have the recited operational characteristics, the method recited in Claim 1 would have to be utilized.

In light of the above, because the conditions for restricting the claims in Groups I and II, as set forth in to M.P.E.P. § 806.05(h) (or § 806.05(f)), have not been met, the Applicants respectfully request that the restriction requirement between these groups be withdrawn.

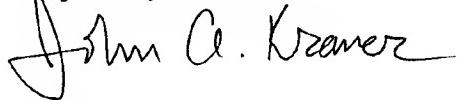
In regards to Section 5(A) of the Office Action (restriction between species), the Applicants note that none of the claims specifically differentiate between the "portions that the locking device interferes with", as they are listed in Section 5(A) of the Office Action. Accordingly, all the pending claims are readable on each of these species. It should be noted that Claims 2 and 14 each recite all the listed portions. As such, it is requested that the restriction requirement in Section 5(A) be withdrawn as being unnecessary.

Additionally, in regards to both Sections 5(A) and 5(B), as set forth at M.P.E.P. § 803, restriction between species is proper if: (i) the inventions are independent or distinct, and (ii) there would be a serious burden on the examiner in examining all the claims drawn to the various inventions. Here, although the Examiner contends that the various species are distinct, the Examiner has given no reasons why the Examiner would be burdened if the restriction requirement was not made. More particularly, where related inventions are distinct, "the examiner, in order to establish reasons for insisting upon restriction, **must** show by appropriate explanation one of the following:

(A) Separate classification... (B) A separate status in the art... [or] (C) A different field of search..." M.P.E.P. § 808.02 (emphasis added). In Section 5 of the Office Action, the Examiner did not identify separate classifications, separate status in the art, or different fields of search. Since the Examiner has not done so, the restriction requirement in Section 5 of the Office Action is believed improper.

In view of the foregoing, the Applicants respectfully request that the restriction requirement be withdrawn upon reconsideration as to Groups I and II and Sections 5(A) and 5(B).

Respectfully submitted,



John A. Kramer
Attorney for Applicants
Registration No. 46302
Customer No. 27804
HOLLAND & BONZAGNI, P.C.
171 Dwight Road, Suite 302
Longmeadow, MA 01106-1700
(413) 567-2076

Date: Nov. 21, 2002

[00170P12]